



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

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MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Daniel J. Bryant *DJB*
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SUBJECT: Weekly Report for July 23, 2001- August 3, 2001

THE WEEK AHEAD

Immigration - Money Laundering: The House International Relations Committee has requested a briefing by Customs, State, INS, DEA and FBI on proposals to expand authority to deny visa to persons engaged in money laundering. OLA is coordinating the briefing, scheduled for September 25, 2001. (Tanner)

Nominations: Robert Mueller was nominated to be Director of the FBI on July 18. He has had courtesy visits with members of the Senate Judiciary Committee this week as well. His hearing has been scheduled for July 30. (Scott-Finan)

Census and Immigration: The House Immigration Subcommittee has postponed indefinitely a hearing on the effect of Immigration on U.S. population numbers, which was scheduled for the week of July 16. (D. Burton)

THIS WEEK

Department of Justice Authorization Act (H.R. 2215): Pending legislation that would formally authorize the activities of the Department is expected to be brought up on the House floor on Monday, July 23. On Tuesday, July 17, the Department sent its views on the bill to the House Judiciary Committee. OLA expects the bill to be brought under suspension of the rules, with one comprehensive manager's amendment. We hope that many of our views will be incorporated in the manager's amendment. The Senate Judiciary Committee is expected to begin consideration of a reauthorization bill soon. (Owen)

Asset Forfeiture: The House Financial Services Committee has requested a briefing on July 23

on the use of criminal forfeiture in counterfeiting cases. Criminal Division, FBI, DEA and OLA expect to participate. (Tanner)

Title III Wiretaps and FISA: A joint Senate Judiciary and Senate Intelligence staff briefing on policies and practices regarding dual use of Title III wiretaps and Foreign Intelligence Surveillance Act (FISA) surveillance on the same target will take place during the week of July 23; both staffs are interested in revising current law to allow broader sharing of wiretap and FISA information take between law enforcement and the intelligence community. (Walter)

Nominations: The Senate Judiciary Committee has scheduled a hearing on July 24 to consider the nominations of: Deborah Daniels, to be Assistant Attorney General for the Office of Justice Programs; Sarah V. Hart, to be Director of the National Institute of Justice; and William Riley, to be a United States Circuit Judge for the Eighth Circuit. We have been advised that Senator Feingold will chair the hearing. (Scott-Finan)

Supreme Court Decision: On July 19, the Attorney General announced a directive to the INS to implement the Supreme Court's decision in Zadvydas v. Davis, which directs the INS to release any persons in detention for which there is no likelihood that their removal order will be affected within a reasonable time. Department and INS staff briefed congressional committees and member offices on Friday, July 19 and will hold further briefings on Monday, July 23. (D. Burton)

FY 2002 Intelligence Authorization Legislation: Markup by the Senate Intelligence Committee of their annual intelligence authorization bill could occur as early as July 24, although it is likely it will be delayed. If markup happens this week, the bill likely will not include substantive changes to Title 18 criminal law provisions. The bill could eventually include changes to FISA and Title III wiretap law and provisions to broaden criminal sanctions for leaks of classified information (the latter was fatally controversial in the 106th Congress; media groups led a lobbying campaign that resulted in veto of the bill and its later passage only when that provision was removed). (Walter)

The Anti-Drug Network (Adnet): On July 24, the National Security Subcommittee, House Government Reform Committee, has scheduled a hearing on Adnet as an example of interagency electronic data sharing and the impact of data sharing on national security. Criminal Division Deputy Assistant Attorney General Bruce Swartz is expected to testify as the Department's witness. (Walter)

The Unlawful Internet Gambling Funding Prohibition Act (H.R. 556): On Tuesday, July 24, the House Financial Services Committee is expected to hold a hearing on this legislation which would prohibit the use of financial instruments for the purpose of gambling. The Department has been contacted regarding a witness but has not yet responded. There is currently no official Administration position on this legislation. (Daley)

Born-Alive Infants (H.R. 2175): On Tuesday, July 24, the House Judiciary Committee expects

to hold a markup of H.R. 2175, introduced by Representative Steve Chabot. This legislation would expand the definition of "person," "human being," "child," and "individual," to include "born-alive infant." The Department has taken no position on this legislation. (D. Burton)

Refugee Status for Vietnamese Refugees (H.R. 1840): On Tuesday, July 24, the House Judiciary Committee plans to markup legislation which would extend the eligibility for refugee status for unmarried children of certain Vietnamese refugees. Staff from the Departments of Justice and State are working with the Committee and Representative Tom Davis, the bill's sponsor, on possible technical amendments. (D. Burton)

National Infrastructure Protection Center: On Wednesday, July 25, the Senate Judiciary Subcommittee on Terrorism and Technology (Feinstein/Chair) will hold a hearing on protecting our nation's critical infrastructure. The FBI has been invited to testify. This hearing was originally scheduled for early spring. (Daley)

Extension of Section 245(i): On July 19, the Senate Judiciary Committee held over the markup S. 778, introduced by Senator Hagel, which would extend section 245(i) for one year from April 30, 2001 to April 30, 2002. Staff from the offices of Senators Kennedy, Kyl and Hatch will meet early this week to work out a possible compromise for consideration next Thursday. (D. Burton)

American Servicemembers Protection Act: On Friday July 13, 2001, representatives of the National Security Council, State, Defense and OLA met with House International Relations minority staff to hear their views concerning the American Servicemembers Protection Act, which passed the House as part of H.R. 1646, the Foreign Relations Authorization Act. OLA staff were not notified about an earlier meeting conducted by State and Defense with majority staff. Our meeting with Senate Foreign Relations majority and minority staffs previously scheduled for July 20, has been postponed until this week.

(Tanner)

FOIA EXEMPTION (b)5

FBI Missing Laptops: Ken Sener, the FBI's head of information security, gave a classified briefing to House Intelligence Committee staff on the chronology of events and steps taken to date in this matter on July 19, and also testified on the matter before the Senate Judiciary Committee on July 18. A similar briefing for Senate Intelligence Committee staff will be scheduled for this week. (Walter)

LAST WEEK

Extradition: On July 16, 2001, representatives of the Criminal Division and OLA briefed staff of the House Government Reform Criminal Justice Subcommittee on the status of the extradition of Ira Einhorn from France to stand trial for murder in state court in Pennsylvania. Einhorn has been

returned to the United States and Subcommittee staff have been kept informed. (Tanner)

Flag Burning: A constitutional amendment to allow Congress to prohibit the physical desecration of the American Flag was considered on the House Floor on Tuesday, July 17.

The Administration supported the amendment, which passed by a vote of 298 - 125, a two-thirds vote being necessary for its presentation to the states for ratification. (Owen)

Bankruptcy: On Tuesday, July 17, the Senate voted 82-16 to pass H.R. 333, Bankruptcy Reform legislation, after replacing it with the Senate-passed version. No votes changed from the original passage of the Senate bill in March. The earlier vote to invoke cloture passed 88-10. Senator Wellstone dropped his procedural efforts to delay the bill when he was able to force a vote on a proposal to require Government Accounting Office (GAO) to study the bill's effects on consumers and debtors. Senate conferees, seven Democrats and six Republicans, have been appointed. (Wilson)

Nominations: A hearing before the Senate Judiciary Committee on the nomination of Representative Asa Hutchinson, to be Administrator of DEA, took place on July 17. The nominee met with members of the Committee last week in preparation for the hearing. On Wednesday, July 18, the Committee held a hearing on the nomination of James Ziglar, to be Commissioner of the Immigration and Naturalization Service (INS). Both nominees have received written questions following their hearing.

On July 19, the Senate Judiciary Committee approved the following nominations by voice vote: Ralph Boyd, to be Assistant Attorney General for the Civil Rights Division; Robert McCallum, to be Assistant Attorney General for the Civil Division; and Eileen O'Connor, to be Assistant Attorney General for the Tax Division. Additionally, the Committee approved the following nominations, each by a roll call vote of 19-0: Roger Gregory, to be a United States Circuit Judge for the Fourth Circuit, and Sam Haddon and Richard Cebull, both to be United States District Judges for the District of Montana. On July 20, the nomination of Roger Gregory was confirmed by a roll call vote of 93-1; Sam Haddon, by a vote of 95-0; Richard Cebull, by a vote of 93-0. Senator Lott was the single vote against Roger Gregory. Both Ralph Boyd and Eileen O'Connor were confirmed by unanimous consent on that date. (Scott-Finan)

Financial Services: On July 18, the Criminal Division, the FBI and OLA briefed members of the staff from the House Judiciary Subcommittee on Crime, on H.R. 1408, "The Financial Services Antifraud Network Act of 2001." On July 19, the Criminal Division, the FBI and OLA briefed members of the staff from the House Financial Services Committee on the same bill. We expect that action on this bill prior to the August recess. (Coughlin)

FBI Whistleblowers: On July 18, 2001, the Senate Judiciary Committee held an oversight hearing, entitled "Reforming FBI Management: The Views from Inside and Out," which included

testimony from two FBI management officials and four FBI employees, who criticized FBI management. One of them was the principal author of a report suggesting that there is a disparity, or double standard, in the treatment of management officials versus line agents. We had provided significant documents to the Committee in advance of the hearing, pursuant to an agreement that prohibited the Committee's disclosure of the documents and their contents, and provided for the documents to be returned to the Department on July 20, 2001, which they were. We anticipate further Committee oversight actions regarding the FBI, particularly in light of the disclosures on July 16 about missing firearms and computers. (F. Burton)

FBI Oversight: Last week, we provided the Senate Judiciary Committee with documents responsive to their multi-faceted request regarding the FBI. These included records regarding the background investigations of former Special Agent Hanssen as well as material relating to our indictments of former FBI informants and a former FBI Special Agent. We also conferred further with House Government Reform Committee staff about the status of their document request relating to the FBI's handling of informants in Boston. We expect that additional documents responsive to their request will be produced in the next several weeks. (F. Burton)

Pardons and Parole: The week of July 16, OLA provided Parole Commission and FBI documents in response to requests from the House Committee on Government Reform relating to unsuccessful efforts by Roger Clinton to obtain parole for Rosario Gambino, who is serving a lengthy prison term for drug related felonies, and another inmate, John Ballis. On July 17, the Parole Commission General Counsel, Michael Stover, was interviewed by Committee staff about the Commission's contacts with Roger Clinton. He reported his disapproval of the Commission's contacts with Roger Clinton, which he had expressed at the time they occurred to the Commission's Chief of Staff, Marie Ragghianti, who has recently been identified as a possible nominee to the Commission.

OLA expects to arrange for the Committee staff to interview a supervisory DEA agent, who participated in investigations of pardoned drug dealer Carlos Vignali and his father, Horatio Vignali. The staff believe that the investigative information showing the Vignalis' relationship with another drug dealer should be imputed to former United States Attorney Alejandro Mayorkas, who, during the clemency review process, communicated his view that Carlos Vignali came from a respectable family. (F. Burton)

Deliberative Documents: We have received another document request in the wake of the Department's recent briefing for House Government Reform Committee staff about the Department's declination decisions regarding Mark Middleton. Staff have indicated that they were satisfied with the briefing and would not continue to seek access to the declination memorandum if the Department would provide a memorandum from the former Chief of the Campaign Financing Task Force, Robert Conrad, to the former Attorney General, conveying Mr. Conrad's advice about whether she should seek the appointment of a statutory Independent Counsel relating to then

Vice President Gore. On July 18, Deputy Attorney General Larry Thompson and Assistant Attorney General Michael Chertoff met with Chairman Burton and Congressman Barr to explain the Department's serious concerns about the disclosure of deliberative documents containing advice to high level officials, especially about criminal law enforcement matters. We expect that Chairman Burton will send another letter to us about this matter in the coming week, but we hope the meeting will dissuade him from taking more troubling action. (F. Burton)

Charitable Choice (H.R. 7): On July 18, the House took up this bill with a number of procedural votes, including a Democratic substitute and a motion to recommit the bill for further consideration of the discrimination provisions (both of which failed). The bill finally passed by a vote of 233 to 198, with 15 Democrats voting in favor and four Republicans voting against. OLA worked extensively with the House leadership and the various committee staffs to provide technical guidance, as the Administration strongly supported the bill. (Owen)

Money Laundering: On July 18, 2001, the Senate Government Affairs Permanent Subcommittee on Investigations held a hearing on efforts by the Organization for Economic Cooperation and Development to eliminate illegal tax havens. Criminal Division Assistant Attorney General Michael Chertoff testified concerning money laundering through such illegal tax havens. Treasury Secretary O'Neill also testified. The House Financial Services Committee has requested a briefing on money laundering and the capture of Vladimiro Montecinos of Peru. (Tanner)

Trafficking in Persons: On Wednesday, July 18, you held a press conference to announce delivery to the Federal Register of a regulation which provides for benefits and services to victims of trafficking under section 107(c) of the Victims of Trafficking and Violence Protection Act of 2000. (D. Burton)

Yemen: On July 16, an FBI representative briefed Senate Foreign Relations Committee staff on the withdrawal in June from Yemen of the FBI investigative team on the U.S.S. Cole bombing. A similar briefing for House International Relations Committee staff took place on July 18. (Walter)

Espionage Prosecutions--Hanssen: Robert Hanssen pled guilty to espionage in the Eastern District of Virginia on Friday, July 6. A case status briefing for Senate Intelligence Committee staff took place on July 17. Copies of the plea agreement and accompanying court documents were hand delivered on July 6 to the majority and minority staffs of the Senate and House Intelligence Committees and Senate and House Judiciary Committees. An FBI representative briefed Senate Intelligence Committee staff on July 19 on the facts surrounding Hanssen's hacking into an FBI computer in the early 1990s. (Walter)

FBI Computer Systems--Trilogy: On July 13, Bob Dies, FBI Assistant Director for Information Systems, and Ken Sensor, head of information security at the FBI briefed Senate Judiciary Committee staff on the FBI's plans to modernize its computer systems and enhance the

system's security features. Both testified at a Senate Judiciary Committee hearing on FBI management issues on July 18. A similar briefing for House Intelligence Committee staff was held on July 20. (Walter)

Racial Profiling: On July 19, the House Government Reform Committee held a hearing on whether the use of audio-visual technology can be used effectively to stop racial profiling. Assistant Attorney General for Office of Legal Policy Viet Dinh testified on behalf of the Department, stating that we will take an active role in ending racial profiling by providing resources as well as oversight to state and local authorities. (Scott-Finan)

Halfway Houses: On July 20, the House D.C. Subcommittee held a hearing on halfway houses in the District of Columbia and how the District intends to handle the influx of released and paroled prisoners expected in the coming years. Kathleen Hawk Sawyer, Director of the Federal Bureau of Prisons, and Edward Reilly, Chairman of the U.S. Parole Commission, testified on behalf of the Department. (Scott-Finan)